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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/830,772

05/01/2001

Philippe Sehier

Q64200

3675

7590

10/20/2004

Sughrue Mion Zinn Macpeak & Seas
2100 Pennsylvania Avenue N W Suite 800
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EXAMINER

HSU, ALPUS


ART UNIT

PAPER NUMBER

2665

DATE MAILED: 10/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s) 	
	09/830,772	SEHIER, PHILIPPE	
	Examiner	Art Unit	
	Alpus H. Hsu	2665	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 May 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>01 May 2001</u> . | 6) <input type="checkbox"/> Other: _____ |

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1. Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy has been filed in parent Application No. PCT/EP99/09474, filed on 24 November 1999. The abstract of the disclosure is objected to because in line 1, "mope" should read as --mode-- for correcting the typographical error. Correction is required. See MPEP § 608.01(b).

3. Claims 1-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1-5 are rejected as vague and indefinite since although a method is claimed in each claim, there is no clear method steps recited in act of tense such as: transmitting, assigning, selecting, providing,, etc. See Ex parte Erlich 3 USPQ 2d 1011 at 1017 [6].

Furthermore, in claim 1, lines 2-3, "the same station", line 11, "each sending", each lacks antecedent basis; lines 7-11, it is confusing for reciting "the duration of the period during which each terminal sends **and/or** the number of codes assigned to each terminal **and/or** the number of symbols assigned a particular code in a terminal can be selected on each sending as a function of a particular power level" since it is unclear as to what is intended to be the claim limitation for defining the function of the power level. Is it including all three of the duration, codes and symbols or just one of them?

In claim 4, lines 1-2, it is confusing for reciting "The use of the method according to claim 1 in a telecommunication system" since it is unclear as to whether a method or an apparatus is claimed. For proper claim language, if an apparatus is intended to be claimed, the apparatus needs to include all means plus the functions each means performs.

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In claim 5, lines 2-5, it is confusing for reciting "the duration of the period of sending **and/or** the number of codes assigned to that terminal are chosen as a function of its position relative to the station" since it is unclear as to what is intended to be the claim limitation for defining the function of the position.

In addition, regarding claim 4, lines 2-3, the phrase "for example" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over FUHRMANN in U.S. Patent No. 5,745,837 in view of XU et al. in U.S. Patent No. 6,005,854.

Referring to claim 1, FUHRMANN discloses an asynchronous transfer method of transmitting digital signals from terminals (CPEs) to a central station (HEAD END), providing signals are transmitted by cells (col. 41, lines 1-13), the terminals send successively in separate periods (col. 41, lines 17-28), and each cell is assigned at least two orthogonal codes (col. 41, lines 13-17), wherein the duration of the sending period, number of codes assigned to each terminal, and number of symbols assigned a particular code in the terminal are putting into consideration for data transmission (col. 39, lines 10-36). FUHRMANN differs from the claim, in that, FUHRMANN fails to disclose the selection of duration of the sending period, number of codes assigned to each terminal, and number of symbols assigned a particular code in the

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terminal as a function of a particular power level, which is well known in the art and commonly used in communications field for power level control purpose. XU et al., from the similar field of endeavor, teaches the uses of duration of the sending period, number of codes assigned to each terminal, and number of symbols assigned a particular code in the terminal as function of power level (col. 6, lines 1-52), which can be easily adopted by one of ordinary skill in the art to implement into the method and system in FUHRMANN to provide the method and system with power level control to further improve the efficiency for the method and system.

Referring to claim 2, FUHRMANN discloses the uses of guard interval between the frames sent (col. 39, lines 17-29).

Referring to claim 3, FUHRMANN discloses the given time period that a terminal sends the data signals is uninterrupted (col. 3, lines 14-23).

Referring to claim 4, FUHRMANN discloses the use of the method in a non-geosynchronous satellite system (col. 1, lines 19-30).

Referring to claim 5, FUHRMANN differs from the claim, in that, FUHRMANN fails to disclose the selection of duration of the sending period and number of codes assigned to each terminal are chosen as a function of the terminal's position relative to the central station, which is well known in the art and commonly used in communications field for terminal position monitoring and control purposes. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to utilize the selection mechanism of choosing the duration of the sending period and the number of codes assigned to each terminal as a function of the terminal's position relative to the central station to provide the system with capability of

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monitoring and controlling the terminals from the central station to further improve the reliability of the system.

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Schilling et al. and Mouldsley are cited to show the common feature of CDMA/TDMA communication system utilizing spreading codes in TDMA transmission similar to the background of the invention.

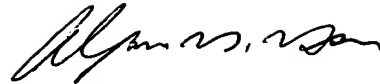
Narvinger et al. is further cited to show the feature of utilizing guard interval for separating the frames transmitted from terminals to central station in WCDMA communication system similar to the claimed invention.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alpus H. Hsu whose telephone number is (571)272-3146. The examiner can normally be reached on M-F (5:30-3:00) First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy D. Vu can be reached on (571)272-3155. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AHH

A handwritten signature in black ink, appearing to read "Alpus H. Hsu".

Alpus H. Hsu
Primary Examiner
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